

**1235 RIGHT OF WAY: PEDESTRIAN'S DUTY: DIVIDED HIGHWAYS OR HIGHWAYS WITH SAFETY ZONES**

The Wisconsin statutes define “right of way” as the privilege of the immediate use of the roadway<sup>1</sup> and, further provide, that at intersections or crosswalks on divided highways or highways provided with safety zones where traffic is controlled by traffic control signals or by a traffic officer, the operator of a vehicle shall yield the right of way to a pedestrian who has started to cross the roadway either from the near curb or shoulder or from the center dividing strip or safety zone with the green or “Walk” signal in his or her favor.<sup>2</sup> If the signal turns against a pedestrian before the pedestrian leaves the center dividing space or safety island, the pedestrian shall yield the right of way to vehicles lawfully proceeding directly ahead on a green signal.

If you find that at (intersection on a divided highway), where traffic was controlled by traffic control signals, (pedestrian) was in the act of crossing the roadway from the near curb or shoulder with the (green) (Walk) signal in (his) (her) favor, then (pedestrian) was entitled to the right of way over an approaching vehicle. However, if you find that the signal turned against (pedestrian) before (he) (she) left the center dividing space or safety island, then it was (pedestrian)’s duty to yield the right of way to a vehicle on the roadway lawfully proceeding directly ahead on the (green) signal.

**NOTES**

1. Wis. Stat. § 340.01(51).
2. Wis. Stat. § 346.23(2).

**COMMENT**

The instruction and comment were originally published in their present form in 1960. The instruction was revised in 1992 and 2008. Editorial changes were made in 1992 to address gender references in the instruction. This revision was approved by the Committee in September 2021.

For the definition of specific words and phrases, see Wis. Stat. § 340.01.

The instruction should be changed to accommodate it to the factual situation, as to crosswalk, or divided highway, or highways provided with safety zones, or if traffic is controlled by a traffic officer.

**Driver or Operator.** This instruction applies to either an operator or a driver of a motor vehicle. If “driver” is more appropriate to the evidence, then substitute “driver” for “operator.”

**Rights and duties of bicyclists.** Different right-of-way standards apply depending on whether a bicyclist was using the roadway as any other vehicle or as a pedestrian upon a sidewalk or within a crosswalk. See Chernetski v. American Family Mutual Insurance Co., 183 Wis.2d 68, 515 N.W.2d 283 (1994) and Estate of Zhu v. Hodgson, 2021 WI App 10, 395 Wis.2d 768, 954 N.W.2d 748.